

# Government of the District of Columbia

## ZONING COMMISSION



ZONING COMMISSION ORDER NO. 81

CASE NO. 71-30

February 1, 1974

Pursuant to notice, a public hearing of the Zoning Commission was held on April 25 and June 21, 1973, to consider the preliminary application for a planned unit development and related zone change, filed by the Dupont Circle Joint Venture.

### FINDINGS OF FACT

1. The site of the proposed planned unit development is located on the south side of Dupont Circle in the block bounded by Dupont Circle, 19th Street, Sunderland Place and New Hampshire Avenue, N.W., in Square 115, Lots 31-47, 50-56, 79, 81-82 and 822.
2. The area of the subject site is approximately 66,715 square feet (Baist Atlas Vol. 1, Page 6) .
3. A portion of the subject site is presently zoned C-3-B (High bulk major business and employment center - floor area ratio of 6.5 and 90 feet height limit,, residential use limited to floor area ratio of 4.5 and percentage of lot occupancy of 75) at the northern tip of the site occupied by the Euram Building, which faces directly onto Dupont Circle, the remainder of the site is presently zoned SP (Office-floor area ratio of 5.5, height and limit of 90 feet).

4. The related zone change filed with this preliminary application for a planned unit development requests that the portion of the subject site presently zoned SP be changed to C-3-B.

5. This preliminary application proposes the construction of a 12-story office building to a height of 130 feet with roof structures extending above that level, with retail space on the first floor and part of the first cellar, and parking for 428 at four below-grade levels.

6. The most significant feature of this preliminary application is the proposal to transfer unused density from 2 existing buildings on the site to the proposed 12-story office building at the center of the site. The applicant has contracted to purchase 90,000 square feet (approximately 5.18 FAR) from the Columbia Historical Society and 4,218 square feet (0.5 FAR) from the owners of the Euram Building. These unused development rights totalling approximately 94,218 square feet would be utilized in the construction of the proposed building,

7. The Columbia Historical Society property currently contains 15,695 square feet of gross floor area (approximately a floor area ratio of 0.9) in the Heurich Mansion and Carriage House. Under the present SP zoning a total of 95,590 square feet could be developed on the Society's property. If the requested zone change to C-3-B is granted, a total of 121,660 square feet could be developed by the Society. The property owned by the Society would thus have an unused development potential of approximately 108,874 square feet.

8. The Euram Building, located at the northern corner of the triangular site, was built to the maximum floor area ratio permitted as a matter of right in the C-3-B zone district. However, the inclusion of the Euram site within the area of the proposed planned unit development makes it eligible for a possible additional 0.5 FAR, and it is proposed that this

additional unused development potential of 4,218 square feet created through the planned unit development process be sold to the Joint Venture,

9. The subject site is located in the Dupont Circle section of the District. Within the site two new structures, the Eram and Sunderland Buildings, have been constructed within the recent past. Other buildings adjacent to Dupont Circle and the site have been recently completed. This construction has included office buildings and apartment houses. The general area is of a mixed character, including large amounts of residential space as well as retail and employment facilities. One of the most important visual aspects of the area adjacent to the site is Dupont Circle itself. Five streets lead into the Circle from ten different directions, these streets break into the facade of the Circle. There are presently eleven building facades facing on the Circle. Of these, seven are approximately 40 feet or less in height, while the remaining four are approximately 90 feet or greater in height.

10. Immediately across 19th Street from the subject site is the Dupont Circle Building, an office building constructed prior to 1958, which rises to 130 feet and exceeds the maximum allowable FAR in the C-3-B zone district. The site is and will be accessible by mass transit. Presently numerous metro bus routes use Connecticut Avenue, Massachusetts Avenue, and P Street, 19th Street and 20th Street. The Dupont Circle station of the Rockville Metro route will be constructed to serve the area containing the site. The entrance to the south end of the station will be located on the east side of 19th Street immediately across the street from the site.

11. Existing zoning in the area is a combination of high density districts, including C-3-B, SP and C-2-B. As aforesaid, the east side of 19th Street immediately around from the site is zoned C-3-B, but developed with a building conforming to specifications of the C-4 zone district. The north side of New Hampshire Avenue is zoned C-3-B. The third side of the site is bordered by SP zoning. The C-3-B zone district currently extends approximately three-quarters of the way around Dupont Circle.

12. There have been numerous applications in the general vicinity of the subject site made to this Commission. Applications before this Commission for the square within which the subject property is located and immediately abutting squares are as follows::

- a, Square 114 (immediately across New Hampshire Avenue from the subject property): application for change of zone from SP to C-3-B: Case No. 64-90, denied without a hearing, December 15, 1964.
- b. Square 114 (immediately across New Hampshire Avenue from the subject property): application for change of zone from SP to C-3-B: Case No. 65-10, denied without a hearing, February 2, 1965.
- c. Square 114 (immediately across New Hampshire Avenue from the subject property): application for change of zone from SP to C-3-B: Case No. 66-19, approved October 4, 1966 .
- a. Square 115 (part of the subject property): application for change of zone from SP to C-3-B: Case No. 67-64, denied January 15, 1968.
- e. Square 116 (south of the subject property): application for change of zone from SP to C-3-B: Case No. 68-59, denied, December 16, 1968.

13. There have also been numerous applications before the Board of Zoning Adjustment in the squares in this general area. These applications fall generally into three classes: requests for permission to establish or continue a parking lot; requests for approval of roof structures to construct new buildings; requests for permission to include certain uses within the SP zone district. Some of the more recent significant cases involving the site include:

- a. Square 115 (part of the subject property): request for permission to occupy part of an SP office building with a nonprofit family foundation: Case No, 10287, withdrawn after public hearing, January 20, 1970,
- b. Square 115 (part of the subject property): request for permission to occupy part of an SP building with an art gallery: Case No. 10171, withdrawn after public hearing, December 16, 1969,
- c. Square 115 (part of the subject property): request for a variance of the use provisions to allow a restaurant in the SP District, Case No. 10981, denied September 21, 1971.

14. The Zoning Advisory Council found that the preservation and upkeep of a Category II Landmark, the Heurich Mansion, owned by the Columbia Historical Society, listed in the National Register of Historical Places, was in the best interest of the District of Columbia, and that the transfer sale of density from the Columbia Historic Society property to the Dupont Circle Joint Venture property was an appropriate method for accomplishing said preservation (TR. 37).

15. The Zoning Advisory Council recommended approval of the preliminary application for a planned unit development but recommended against allowing the transfer of density, created by the planned unit development procedure from the site occupied by the Eram Building to the proposed building, since no public benefit would be gained from said transfer. The Council concluded, however, that if the applicant were to provide a direct pedestrian connection between the site and the Dupont Circle Metro Station substantial public benefit would be established thus upholding the proposed transfer of density from the Eram Building (TR. 37, 38).

16. The Zoning Advisory Council recommended approval of the said application for a planned unit development subject to eleven conditions; relating to applying for zone change from SP to C-3-B, the number of buildings to be developed

on this property, a specific overall floor area ratio for the entire property, specific limits on gross floor area to be transferred to the new building, an established height limit for the new building, specific uses allowable in the new building, a maximum number of parking spaces to be allowed in the new building, convenient and secure parking to be provided for a specific number of bicycles in the building, a pedestrian connection across 19th Street to the Dupont Circle Metro Station, vehicular access to the new building from New Hampshire Avenue at one point, and a landscaping plan accompanying the final application for a planned unit development (TR. 38-40).

17. The National Capital Planning Commission recommended approval of the preliminary application provided that certain conditions relating to the preservation of the Christian Heurich Memorial Mansion, Carriage House and grounds to be made a part of the approval of the preliminary application, pursuant to paragraph 7501.38 of the Zoning Regulations and part of the Order approving the final application, pursuant to paragraph 7501.393 of the Regulations, said conditions to run with the land pursuant to paragraph 7501.53 of the Regulations (TR. 70). The said conditions were attached to the report of the Planning Commission (TR. 70) and entered as an exhibit in the exclusive record of the public hearing (TR. 80).

18. The conditions relating to the preservation of the Heurich Mansion were approved by Counsel for the applicants, the General Counsel of the Planning Commission and the office of the Corporation Counsel for the District of Columbia (TR. 73).

19. The Joint Committee on Landmarks of the National Capital recommended approval of the preliminary application (TR. 76). Stating that the cost of maintaining the Heurich Mansion is immense and that the Columbia Historical Society has been "hard pressed" to maintain the Mansion, and that its preservation would be assured through agreement of the parties to create a trust fund to specifically preserve the mansion (TR. 77).

20. Counsel for the Columbia Historical Society, George Scheitwzer, testified that the Society has been operating under a financial strain due in part to cost of maintaining the property, and that there is a substantial amount of maintenance needed, with some repairs having been deferred because of the inability of the Society to pay for them (TR. 201). The Society requested that this Commission condition the requirements of the proposed conditions relating to the preservation of the Mansion upon exemption of future real estate taxation, because it could not adhere to the conditions and pay the real estate taxes (TR. 205).

21. The proposed conditions relating to the preservation of the Heurich Mansion as referred to above, contain provisions relating to the following areas:

- a. The Society shall use its best efforts to maintain the Heurich Mansion, Carriage House and grounds in good condition and repair, to prevent exterior and interior deterioration.
- b. The Society shall place all money received from the Dupont Circle Joint Venture in consideration for the transfer of its unused floor area ratio in an income producing trust, and the Society can use the trust income and principal, in its discretion, for the maintenance and upkeep of the Mansion, grounds and buildings, If such income from the trust exceeds the cost of maintenance and upkeep the Society may use the excess for any other purposes deemed proper.
- c. No construction, reconstruction or renovation of the exterior or interior of the Mansion or Carriage House shall take place unless approved by the District of Columbia's review committee for nominations to the National Register of Historic Places.

- d. Agents of the nominating committee are permitted to inspect the premises for violations of the conditions.
- e. The Society with approval of the Zoning Commission and on the advice of the nominating committee, may erect a library and museum building on the lot.
- f. The Society may apply to the Zoning Commission for amendment or termination of the conditions if circumstances make it impossible to comply with the conditions,

22. Considerable and vigorous opposition to this preliminary application, from residents of the neighborhood, was evinced at the public hearing.

#### CONCLUSIONS OF LAW

1. The planned unit development process is an appropriate means of controlling the development of the subject site.

2. The additional floor area ratio, created pursuant to the Zoning Regulations when property is included in a planned unit development, can legally be allocated to any property in the planned unit development.

3. This preliminary application is appropriate, taking the present character of the area into consideration, because it would encourage stability of the area and the land values therein.

4. The approval of this preliminary application is in harmony with the intent, purpose and integrity of the comprehensive zone plan of the District of Columbia as embodied in the Zoning Regulations and Map.



5. The approval of this preliminary application for a planned unit development is in accordance with the Zoning Regulations of the District of Columbia, as amended, and the Zoning Act (Act of June 20, 1938, 52 Stat. 797), as amended.

DECISION

While the proposed FAR of the new building to be built in the middle of the site was 7.0, the effective FAR of the proposed building due to a concentration of density would have been 9.79. By reducing the overall FAR of the site to 6.5, the effective FAR of the proposed building is reduced to 8.9. The lessening of height and bulk of the proposed building will decrease its visual impact on the immediately adjacent historic landmark, the Weurich Mansion, and will provide a less abrupt height and bulk differential between the new building and buildings in the immediate area including the Euram and Sunderland Buildings.

Upon consideration of the findings of fact and conclusions of law herein, the Zoning Commission hereby Orders APPROVAL of said preliminary application for a Planned Unit Development subject to the elements, conditions and guidelines hereinafter set forth:

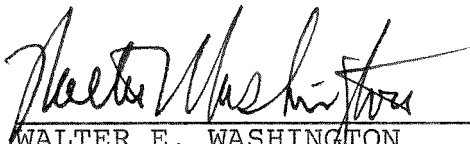
1. An application for a change of zone from SP to C-3-B for that portion of the site currently zoned SF shall accompany the application for final approval.
2. The property shall be developed with no more than five separate buildings, The existing Euram and Sunderland Buildings shall not be increased or decreased in terms of gross floor area, provided that certain minor modifications may be made to the Sunderland Building, as shown on Exhibit 16 of the public hearing.
3. The existing Heurich Mansion, Carriage House and garden shall be preserved. Additional construction on that site for a library and/or auditorium, not to exceed

a total of 15,275 square feet of gross floor area, may be approved, but only if the property owner applies to the Zoning Commission for an amendment to the approved Planned Unit Development,


4. The overall FAR for the entire Planned Unit Development shall not exceed 6.5.
5. The new building shall include 82,000 square feet of gross floor area transferred from the Columbia Historical Society property.
6. The new building shall not exceed 130 feet in height. Any roof structures in the excess of that limit, as normally permitted by the Regulations, shall not exceed 17 feet in height.
7. The new building shall be devoted to any uses permitted in the C-3-B District, provided that the ground floor and one half of the first cellar shall be devoted to retail commercial uses, provided further that such retail uses shall not include banks.
8. Parking shall be provided at the rate of one space per 2,000 square feet of gross floor area,
9. A convenient and secure parking area for 25 bicycles shall be provided on the ground level or first cellar level.
10. Vehicular access to the new building shall be from New Hampshire Avenue and shall be restricted to one point,
- 1b. The final design shall contain a pedestrian passage through or around the new building from New Hampshire Avenue to

19th Street. The area of such pedestrian passage will not be included in the calculation of FAR permitted on the site. Such passage shall be fronted and contain entrances to the retail establishments referred to in Item No, 7 above.


12. A plan showing all existing and proposed landscaping shall accompany the final application.
13. All provisions contained in the Proposed Conditions Relating to Preservation of Christian Heurich Memorial Mansion, Carriage House and Grounds, annexed hereto as Attachment Number I, are by this reference made part of this preliminary approval of the Planned Unit Development.
14. Said conditions for preservation shall run with the land.

  
WALTER E. WASHINGTON

  
JOHN A. NEVIUS

  
STERLING TUCKER

  
GEORGE M. WHITE

  
RICHARD L. STANTON

ATTEST:   
Martin Klauber  
Executive Secretary

NATIONAL CAPITAL PLANNING COMMISSION

WASHINGTON, D.C. 20576

NCPC File No. 0932

PROPOSED CONDITIONS RELATING TO PRESERVATION  
OF CHRISTIAN HEURICH MEMORIAL MANSION,  
CARRIAGE HOUSE AND GROUNDS  
(Zoning Commission Case No. 71-30)

October 31, 1972

1. The Columbia Historical Society and any successor in interest (hereinafter called "Society") shall use its best efforts to maintain the Christian Heurich Memorial Mansion, its carriage house and grounds, known as Lot 79 in Square 115 in the District of Columbia (hereinafter called "Landmark"), in good condition and repair to prevent substantial deterioration to the interior and exterior appearance of the Mansion, the exterior appearance of its carriage house and the appearance of the grounds.

2. No construction, reconstruction, renovation or demolition shall be undertaken which would materially alter the exterior appearance and materials of construction of the Landmark, as depicted in the photographs which are annexed hereto and made a part hereof, unless approved by the District of Columbia's review committee for nominations to the National Register of Historic Places or, if the review committee ceases to exist or is no longer composed of, or required to be composed of, at least one historian, architect, and archaeologist, by a similar professional body mutually agreeable to the Society and the National Capital Planning Commission (hereinafter called "Committee") which approval shall not be unreasonably or unduly withheld.

8. The Society shall place the money received from the Dupont Circle Joint Venture in consideration for the transfer of its unused Floor Area Ratio in an income producing trust, administered by the Society, and shall use the income and may use the principal, in its sole discretion, from the trust for the maintenance of the Landmark, any necessary reconstruction, renovation, refinishing, replanting or installation, as authorized under Conditions #2 and #3, and all operating costs, including the salaries of the personnel required for the maintenance, security, and day-to-day operation of the Landmark.

If the income from the trust fund exceeds the amount of money necessary for maintenance and any reconstruction, renovation, refinishing, replanting or installation, and operating costs, then such excess may be used by the Society for any other purposes it deems necessary or proper.

9. The Society agrees that these conditions (or those in effect after any changes made under Condition 10 or otherwise) will be inserted by it in any subsequent deed, or other legal instrument, by which the Society divests itself of either the fee simple title to or its possessory interest in the Landmark.

10. The Society may apply to the Zoning Commission for amendment ~~of~~ 02 termination of these conditions in the event circumstances arise which, in the opinion of the Society, make it impossible or infeasible for the Society to comply with these conditions.